

City Council of the Mayor and Council of New Castle
Regular City Council Meeting at Town Hall
201 Delaware Street – New Castle
Tuesday – December 13, 2011 – 7 p.m.

Present:

Council President William Barthel
Councilperson John Cochran
Councilperson John Gaworski
Councilperson Ted Megginson
Councilperson Teel Petty

Also present: Mayor Donald Reese, Treasurer Janet Carlin, City Administrator Cathryn Thomas, Finance Director Marian Delaney, Police Chief Kevin McDerby, Building Official Jeff Bergstrom, City Solicitor Daniel Losco

Approval of Minutes by Date

A motion was made by Councilperson Megginson to approve the minutes of November 8, 2011. Councilperson Gaworski seconded the motion. The minutes were approved unanimously.

Approval of Treasurer's Report

Treasurer Carlin reported that, as of November 30, 2011: petty cash on hand was \$1,100; total monthly deposit, \$88,810.82; total in the cash accounts, \$458,006.48; total certificates of deposit, money market and Delaware Government Investment Pool, \$2,604,162.37; and total cash on hand, \$3,062,168.85.

A motion was made by Councilperson Cochran to approve the Treasurer's Report. Councilperson Petty seconded the motion. The report was approved unanimously.

Report from the City Administrator

Administrator Thomas added to her written report that the City is looking to have the follow-up meeting on the waterfront proposal on Jan. 5 at the New Castle School in the auditorium. There will be details presented to Council about the proposal at the meeting.

President Barthel said the report was accepted as presented.

Staff reports

President Barthel said the staff reports were accepted as presented.

Grant Review

Councilperson Cochran provided the review. Grant expense: American Lung Association, \$1,050.

Communications

Councilperson Petty reported the half-way house in Buttonwood has a new resident, a Tier 3 offender. She also gave a report on the pipes being replaced on Buttonwood Avenue. She provided photos to Council. The project is expected to be completed in December from Buttonwood Church to the highway. She also provided information from a course she took on the Board of Adjustment.

Business from the Floor

Earl Carpenter requested that adjustments be made so people in the audience can hear Council.

Business from the Mayor

Mayor Reese said on December 20 the Public Services Department will have signs up prohibiting smoking in sections of the park. He met with a gentleman who is trying to raise awareness about Parkinson's Disease. They are having a meeting in the Library on the third Saturday of the month.

Business from the Council President

President Barthel spoke regarding a request by Chief McDerby for an additional police car, Administrator Thomas sent out an email to Chief McDerby on December 9 indicating that the City needs to set up a time when Council members can perform an inventory of the current vehicles in the Police Department. It would involve a walking tour led by Chief McDerby at the Police station so Council members can see firsthand the fleet, the condition and mileage of the various vehicles, including information as to whom each vehicle is assigned and take-home vehicles for various personnel.

President Barthel said the topic comes up at every budget meeting and recently with the Chief requesting another vehicle. President Barthel believes it would be beneficial to Council to see it firsthand.

Administrator Thomas said that tour would be FOIA compliant. It is a meeting of the Council, like a workshop, and any citizens can attend. There will be at least seven days notice.

President Barthel said last month he attended the Jaycees meeting. It was a great experience and encouraged others to attend. They meet on the third Monday of every month. They have representation at most of the City Council meetings.

Presentation of Recognition to City Employee Keith Wilson for 10 Years of Service

Councilperson Petty made a motion to approve a resolution honoring Keith Wilson. Councilperson Gaworski seconded the motion. The motion passed unanimously.

President Barthel read a resolution and presented a plaque to Mr. Wilson.

Councilpersons expressed their appreciation for Mr. Wilson's service to the City.

Unfinished Business

1. DelDOT presentation on easement requests for City properties.

Joe Hofstee from DelDOT gave an overview of the overall Washington Street project. It involves Washington Street, Seventh Street and South Street. It involves milling and overlays of the streets, new sidewalks and some drainage work. As part of the drainage work DelDOT needs a permanent easement and a temporary easement on property owned by the City, which is at the firehouse. It needs a permanent easement to put in some pipes, put in a manhole and tie it into the system. It also needs a guide wire for the utility pole. The temporary construction easement involves space while doing the work. The drainage work is all underground.

Administrator Thomas said to some degree the permanent easement will limit what the City potentially could do with that area.

Councilperson Gaworski said he suggests putting in a hard surface at Washington and Seventh Streets rather than asphalt because of the truck traffic, particularly on hot days.

Mr. Hofstee said he would check on that but believes it would be a higher grade of hot-mix.

Councilperson Cochran asked if DelDOT would be doing any drainage work at that intersection.

Mr. Hofstee said they would be doing some drainage work, but that area is right at the tidal discharge. There is not a lot of elevation. He will check with the maintenance group on the status of a temporary repair of the large potholes in this area. DelDOT is looking to go out for advertisement for bids on the project in April.

2. Motion, Discussion and Vote on Resolution No. 2011-35, authorizing the City to execute easement agreements from DelDOT for work on the Washington Street project which impacts City-owned properties.

Councilperson Megginson made a motion to approve the resolution. Councilperson Cochran seconded the motion. The motion passed unanimously.

3. Motion, Discussion and Vote on Resolution No. 2011-36, in support of the Municipal Services Commission (MSC) submittal of proposed Charter changes for MSC.

Councilperson Cochran made a motion to approve the resolution. Councilperson Gaworski seconded the motion.

Solicitor Losco said that during the presentation by MSC the big concern was the ability to move quickly and with flexibility to take advantage of either grant or loan programs. The MSC may need to move quickly on the programs and according to the City's own charter, a referendum is required and it is a lengthy process. The idea was to come up with compromise language that gives MSC flexibility but still gives Council some oversight of what is going on. What is changed from the initial proposal is that Council still has veto power, a resolution is required for MSC to borrow. It is on MSC's revenues, not the City's, and is limited to the amount of annual revenues. Most of the other changes are mainly related to clean up of the language in the Charter. One other change gives the right of condemnation for electric facility improvements. The original Charter only gave that power for water improvements.

Administrator Thomas said the resolution is an endorsement of the change, it does not mean the Charter changes. That requires action of the State General Assembly.

The motion passed unanimously.

4. Item to schedule a workshop to discuss proposed changes for the City Charter.

President Barthel said the Charter Committee is finished with its recommendations. Council needs to have a meeting on this.

Administrator Thomas will let the State representatives know this matter is coming.

5. Discussion with representatives from Ryan Homes concerning a request to modify the Riverbend Subdivision development relative to the 55+ age restriction.

Larry Tarabicos, an attorney, on behalf of Ryan Homes said he was brought in to see if he could help find a path forward to get the Riverbend community up and running and become an asset for everyone. That is their goal. He said the community is at a precarious point and if something doesn't happen quickly there will be a horrible situation—a half-done community. Among those also in attendance was Jon Moats, vice president of Ryan Homes who runs the Delaware region for the Ryan Homes company.

He is seeking Council support to remove the 55+ age restriction. He said the current environment is very unfriendly to age-restricted communities. Companies such as Ryan Homes have found the price range of \$225,000 to \$325,000 is very active for residential.

Mr. Tarabicos said the developer already has invested more than \$11 million in the community, including \$1.8 million in the clubhouse.

He provided some background on Ryan Homes. In Riverbend they anticipate townhomes starting in the low \$200,000s and the single-family homes in the high \$200,000s. They expect to sell three or four a month.

He addressed the concerns provided by Solicitor Losco. One was active recreation areas within the project. They have identified three areas. He proposed the developer paying \$350 per lot into an escrow account at each settlement to pay for the active recreation areas. They would allow the homeowners association to decide what goes in those areas.

Another concern is sidewalks. The information provided shows a network of sidewalks to be constructed in the development. Ryan would put the sidewalks in as they build each home; the developer would put the sidewalks in common areas.

Mr. Tarabicos said another City concern has been access. They have not found any feasible means to add secondary access. Their research of codes in Delaware show virtually none require secondary access. Two hundred homes is not unreasonable to have only one means of access.

On traffic, Ron Sutton, a civil engineer for the project, provided some information. Traffic, even without the 55+ designation, is still less than the prior zoning was.

The economic impact of developing the property—transfer taxes, permit fees and the per-lot payment—is about \$2 million for the City.

Councilperson Cochran said his biggest concerns are another entrance and flooding.

Mr. Sutton of Civil Engineering Associates said the flooding elevation is level 9 and the entrance is above level 9 so flooding should not be a concern. They have FEMA's approval to do a lot of the filling needed as far as grading and housing.

He said it would cost millions of dollars to put in a bridge that would be rated for fire trucks.

Councilperson Megginson said the City already had problems with the developer as far as water connections, making the loop, and there is an electrical problem. Is this going to be solved?

Mr. Tarabicos said he understands the concern and the developer has an attorney working on it.

Mr. Sutton said they've done the permits and the plans to make the connections, but he does not know when it will happen.

Mr. Tarabicos said it is a money issue. He will try to get an answer.

Mr. Gaworski said the entrance had flooded last summer. He also asked what the status is with the issue of the bridge and the Army Corps of Engineers, and also the issues with DNREC.

The representatives said they are working with DNREC but did not have answer on the bridge issue.

Mr. Tarabicos said a lot of the issues being brought up are part of the project that was already approved.

President Barthel said he wants to have the City Planner take a look at what the representatives provided at the meeting. In addition, procedurally if it is something Council wants to re-open, it goes back to the Planning Commission. Basically it is starting from scratch. There will have to be a public hearing.

Mr. Tarabicos said he would prefer not to go back to Planning Commission and believes the Council can vote on it without doing that.

New Business

1. Discussion of purchasing flood insurance for the Trolley Barn building.

President Barthel read an email from Mr. Bergstrom recommending not purchasing flood insurance.

Mr. Bergstrom said it is so unlikely that the building will be damaged by flooding, he recommended not spending the money on flood insurance.

Administrator Thomas said the City has not previously had flood insurance on the building. She said the matter came up with the City's insurance company this year.

The consensus was the City will self-insure.

2. Opening of proposals submitted from CPA firms to perform the City's Audit for the Fiscal Year 2010-11.

Bids were received from the firms BL&S and Haggerty & Haggerty. They will be reviewed by the City.

3. Motion, Discussion and Vote on Resolution No. 2011-37, providing a lump-sum pension benefit to three retirees of the City of New Castle.

Councilperson Megginson made a motion to approve the resolution. Councilperson Cochran seconded the motion. Councilpersons Megginson, Cochran and Gaworski voted in favor; Councilperson Petty abstained. It was approved 4-0, with one abstention.

4. Comments from the floor.

Earl Carpenter commended Council for its patience and demeanor during the Riverbend presentation. He said he would not have been that civil. He has followed Riverbend since the beginning. He is aware of the stipulations Council and Planning Commission have put on, and how the developers have failed to do the things the City said were required to be done. He said it is clear they will sell homes to families with children. So it is clear those children will be walking partially on the sidewalk and partially not on the sidewalk. The objection in the past is the City did not want children walking in the street. Everyone is aware of the flooding at the entrance, as shown in the newspaper. He was amazed at the lack of knowledge of their engineer about the problem. It seemed to Mr. Carpenter that they were not prepared to make the request.

President Barthel said they were there just to listen to them at this meeting.

Chip Patterson said that when Cornell Homes officials came in they were going to take 100 lots and build at Riverbend. Is Ryan's intention to build all 200 homes or just a portion of them?

Mr. Losco said he does not know the answer.

President Barthel said there are clearly a lot of questions.

Chief McDerby thanked Council for its generosity and support of the Police Department retirees.

5. Executive Session to discuss personnel matters.

Councilperson Cochran made a motion to adjourn the meeting into an executive session. Councilperson Petty seconded the motion. The motion passed unanimously.

The meeting adjourned at 8:18 p.m.

Respectfully submitted,

Michael Dickinson
New Castle City Clerk